

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DANIEL E. CARPENTER,
Plaintiff,

V.

U.S. DEPARTMENT OF JUSTICE,
and U.S. ATTORNEY FOR THE
DISTRICT OF MASSACHUSETTS,
Defendants.

CIVIL ACTION
NO. 05-11012-MEL

GOVERNMENT’S CROSS-MOTION FOR SUMMARY JUDGMENT

The government cross-moves for summary judgment. As set forth more fully in the accompanying memorandum of law and the attached Declaration of John F. Boseker, the government has properly dealt with plaintiff's FOIA request, and the information requested is subject to protections under both FOIA and the Privacy Act.

Moreover, plaintiff currently is a defendant in a federal criminal case, United States v. Carpenter, Crim. No. 04-10029-GAO, and this FOIA action is his attempt to circumvent the proper criminal discovery process in that case. As argued in the accompanying memorandum, the Court should decline to sanction such tactics.

Wherefore, the government respectfully requests that this Court enter summary judgment in its favor. If this Court is inclined to hold a hearing, the government requests a stay until after resolution of plaintiff's pending motion in limine filed on the same issue in the criminal matter. In any event, due to the undersigned counsel being out of state on a previously scheduled family vacation, the government requests that any hearing take place after July 13, 2005.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

/s/Eugenia M. Carris
Eugenia M. Carris
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Dated: July 1, 2005

L.R. 7.1 Certification

I certify that I attempted to resolve or narrow the issues presented in this motion.

/s/ Eugenia M. Carris
Eugenia M. Carris

CERTIFICATE OF MAILING

This is to certify that a true copy of the foregoing was electronically noticed or sent by first class mail on July 1, 2005, to plaintiff's counsel of record, Richard S. Order, Esq., Axinn, Veltrop & Harkrider LLP, 90 State House Square, Hartford, CT 06103, and Jack E. Robinson, Esq., 187 Atlantic Street, Stamford, CT 06902.

/s/Eugenia M. Carris
Eugenia M. Carris